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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,565	03/17/2004	Satoshi Okamura	B208-1039A	3510
26272 7590 07/20/2007 COWAN LIEBOWITZ & LATMAN P.C. JOHN J TORRENTE 1133 AVE OF THE AMERICAS NEW YORK, NY 10036			EXAMINER HANNETT, JAMES M	
			ART UNIT 2622	PAPER NUMBER
			MAIL DATE 07/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/802,565

Applicant(s)

OKAMURA, SATOSHI

Examiner

James M. Hannett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-8, 12-25, 28, 29, 32, 33, 36 and 37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-8, 12-25, 28, 29, 32, 33, 36 and 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: camera with combined flash angle and focus motor control..

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 5-8, 12-15, 28,29,32,33,36 and 37 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 5-8 of prior U.S. Patent No. 6,788,345. This is a double patenting rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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1: Claims 5-8, 12-25, 28,29,32,33,36 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 4,881,128 Yamada.

2: As for Claim 5, Yamada teaches on Column 1, Lines 57-68, Column 21, Lines 15-25, Column 3, Lines 7-36 and Column 6, Lines 6-13 and depicts in Figures 1 and 5 An image pickup apparatus (10) capable of picking up an image as a moving image (abstract), comprising: (A) a recording device (12) which records a still image; (B) a changing device (74 and 90) which changes at least one of a focal length of an image forming optical system (14) and an illuminating angle of a flash device (17a) (Column 5, Lines 31-68 and Column 6, Lines 1-13); and (C) a restraining device (19) which restrains said changing device (90 and 76) from changing said at least one of the focal length of the image forming optical system (14) and the illuminating angle of the flash device (17a) when said recording device (12) records the still image.

3: In regards to Claim 6, Yamada teaches on Column 5, Lines 31-68 and on Column 6, Lines 1-13 and depicts in Figure 5 said changing device includes a motor (90) for changing the focal length of the image forming optical system (14).

4: As for Claim 7, Yamada teaches on Column 5, Lines 31-68 and on Column 6, Lines 1-13 and depicts in Figure 5 wherein said changing device includes a motor (76) for changing the illuminating angle of the flash device (17a).

5: In regards to Claim 8, Yamada teaches on Column 3, Lines 58-68 and on Column 4, Lines 1-10 and depicts in Figure 1 operation member (27) which issues an instruction for

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causing said recording device (12) to record the still image, said restraining device (19) becoming operative in response to the instruction from said operation member (27).

6: As for Claim 12, Claim 12 is rejected for reasons discussed related to Claim 5, Since Claim 5 is substantively equivalent to Claim 12.

7: In regards to Claim 13, Claim 13 is rejected for reasons discussed related to Claim 6, Since Claim 6 is substantively equivalent to Claim 13.

8: As for Claim 14, Claim 14 is rejected for reasons discussed related to Claim 8, Since Claim 8 is substantively equivalent to Claim 14.

9: In regards to Claim 15, Claim 15 is rejected for reasons discussed related to Claim 5, Since Claim 5 is substantively equivalent to Claim 15.

10: As for Claim 16, Claim 16 is rejected for reasons discussed related to Claim 6, Since Claim 6 is substantively equivalent to Claim 16.

11: In regards to Claim 17, Claim 17 is rejected for reasons discussed related to Claim 8, Since Claim 8 is substantively equivalent to Claim 17.

12: As for Claim 18, Claim 18 is rejected for reasons discussed related to Claim 5, Since Claim 5 is substantively equivalent to Claim 18.

13: In regards to Claim 19, Claim 19 is rejected for reasons discussed related to Claim 6, Since Claim 6 is substantively equivalent to Claim 19.

14: As for Claim 20, Claim 20 is rejected for reasons discussed related to Claim 5, Since Claim 5 is substantively equivalent to Claim 20.

15: In regards to Claim 21, Claim 21 is rejected for reasons discussed related to Claim 7, Since Claim 7 is substantively equivalent to Claim 21.

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16: As for Claim 22, Claim 22 is rejected for reasons discussed related to Claim 5, Since Claim 5 is substantively equivalent to Claim 22.

17: In regards to Claim 23, Claim 23 is rejected for reasons discussed related to Claim 7, Since Claim 7 is substantively equivalent to Claim 23.

18: As for Claim 24, Claim 24 is rejected for reasons discussed related to Claim 5, Since Claim 5 is substantively equivalent to Claim 24.

19: In regards to Claim 25, Claim 25 is rejected for reasons discussed related to Claim 7, Since Claim 7 is substantively equivalent to Claim 25.

20: As for Claim 28, Claim 28 is rejected for reasons discussed related to Claim 5, Since Claim 5 is substantively equivalent to Claim 28.

21: In regards to Claim 29, Claim 29 is rejected for reasons discussed related to Claim 5, Since Claim 5 is substantively equivalent to Claim 29.

22: As for Claim 32, Claim 32 is rejected for reasons discussed related to Claim 5, Since Claim 5 is substantively equivalent to Claim 32.

23: In regards to Claim 33, Claim 33 is rejected for reasons discussed related to Claim 5, Since Claim 5 is substantively equivalent to Claim 33.

24: As for Claim 36, Claim 36 is rejected for reasons discussed related to Claim 5, Since Claim 5 is substantively equivalent to Claim 36.

25: In regards to Claim 37, Claim 37 is rejected for reasons discussed related to Claim 5, Since Claim 5 is substantively equivalent to Claim 37.

Conclusion

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPN 5,610,723 Yamagishi teaches a camera with focus control; USPN 5,652,920 Kaihara et al teaches the use of a camera having a variable flash angle controller; USPN 5,703,638 Ohta et al teaches the use of a camera for both still and motion modes of operation; USPN 5,911,085 Fuke et al teaches a variable angle flash device for a camera.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M. Hannett whose telephone number is 571-272-7309. The examiner can normally be reached on 8:00 am to 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on 571-272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James M. Hannett
Examiner
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JMH
July 18, 2007